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Paper 8

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OFFICE OF PETITIONS

In re Application of : DECISION ON PETITION  
Crossland, et al :  
Application No. 10/084,652 :  
Filed: 28 February, 2002 :  
Attorney Docket No. 124-930 :  
:

This is a decision on the paper styled "Supplemental Information" filed via FAX on 1 October, 2002, following the dismissal of an earlier petition, and therefore considered as a renewed petition under ¶(a) of 37 C.F.R. §1.47.<sup>1</sup>

The renewed petition is **GRANTED.**<sup>2</sup>

Petitioner has shown that, while inventor William A. Crossland and Timothy D. Wilkinson have signed the oath/declaration, the non-signing inventor **Tat C.B. Yu** (Mr. Yu) has failed to sign and so join in the filing of the above-identified application after having been presented with the application papers, or could not be found after diligent search.

Specifically, the declaration/statement/submission of facts of/by Stanley C. Spooner (Reg. No. 27,393), who advanced to the Office as valid correspondence/statements/declarations (having satisfied his duty of candor by properly investigating them) of Linda Bruckshaw and Philip

<sup>1</sup> The regulations at 37 C.F.R. §1.47 provide:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s). [47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

<sup>2</sup> Pursuant to Petitioner's authorization, the petition fee (\$130.00) is charged to Deposit Account 14-1140.

Davies, establish(es) that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

**This file is being forwarded to OIPE for processing as necessary to reflect the instant decision,**  
and then forwarded for examination in due course.

Telephone inquiries concerning **this decision** may be directed to the undersigned at (703) 305-9199.



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Office of the Deputy Commissioner  
for Patent Examination Policy